

Investor given Naguru-Nakawa land

Change of plan. The demand for compensation comes after government resolved not to construct low cost houses on the land since the area is almost inside the central business district.

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KAMPALA. OpecPrime Properties-Uganda Ltd, the company that has failed to develop the planned Nakawa-Naguru satellite city, is claiming \$47m (Shs170b) compensation from government for part of project land offered to build an ultra-modern Aga Khan hospital.

The firm's claim has pitted officials in the ministries of Lands, and Local Government and Kampala Capital City Authority (KCCA) against each other, according to sources familiar with the matter.

Some favour the payout and others against it. Kampala Affairs minister Beti Kamyia said talks on the matter are ongoing, adding that government has not yet taken position on it.

"The \$47m was supposed to be a subsidy from government to help them (OpecPrime) construct the earlier planned low-cost housings for the former tenants, but the plan changed," Ms Kamyia said.

"That area is almost inside [the Kampala] Central Business District so the government has since resolved not to construct low cost housings, but to develop it into something better," she added.

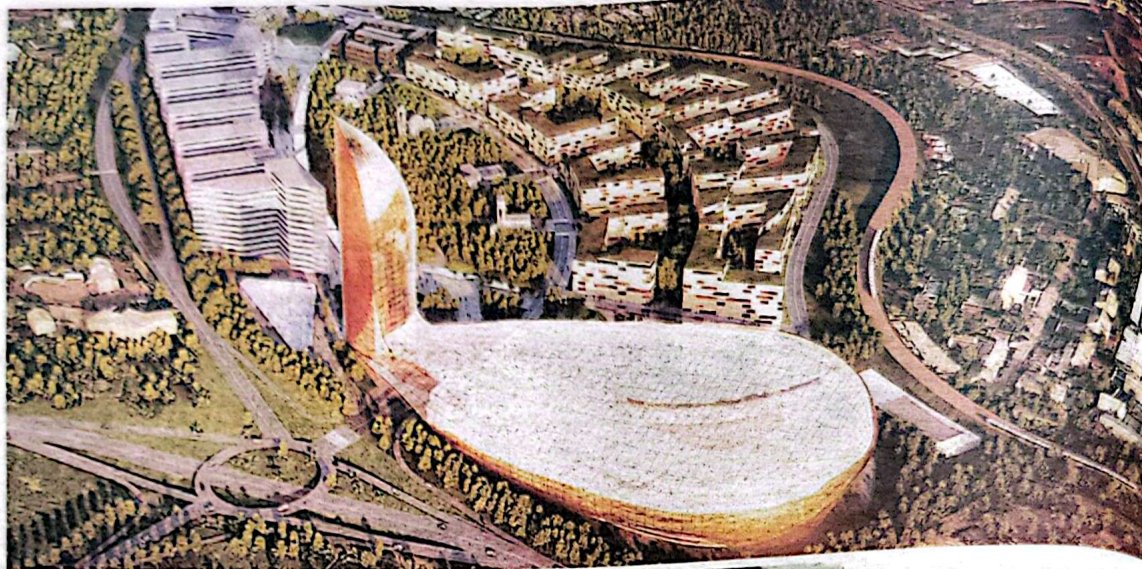
The government is exploring a "win-win situation" for both sides, the minister said.

Claim details

Our investigations reveal that OpecPrime Properties, a UK-based company owned by the Comer brothers; Brian and Luke Comer, had added an addendum of \$5.6m (Shs20b) "total third party costs" claim for costs incurred over the last 10 years.

A breakdown of the expenses include Shs97m for preparing books of accounts, Shs700m for generating bill of quantities and calculations for various sections and master plan purposes and Shs940m for appraisal of Nakawa and Naguru sites. Also included was expenditure on market studies.

The company is reported to have waived these costs in the "interest of



Proposed design. An artistic impression of the Naguru estate. FILE PHOTO

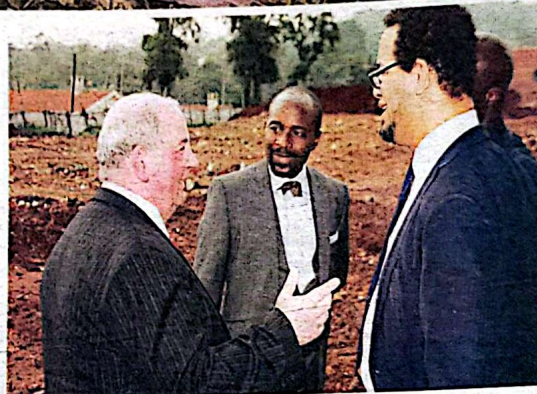
allowing assessment" for the more substantial \$47m compensation payment.

Other third party costs that the company proposed for consideration are Shs10b for local and international architects and developing conceptual and detailed master plans; Shs2b for transactional and financial advisors who prepared business plans and memoranda.

Other costs include Shs4b for engaging lawyers over a 10-year period; Shs832m for travels and accommodation for consultants for on-site inspections and surveys; Shs1.2b for rent and administrative, personnel, printing and other running costs; and, Shs213m for environmental impact assessment for the satellite city project.

The company tendered its claim to government in 2016, months after ground-breaking for the proposed hospital complex that will sit on 60 acres in Nakawa division.

President Museveni and His High-



Investors. Mr Brian Comer, one of the investors, talks to Mr Prince Hassan Kimbube (centre) and other officials at the Naguru estate land in 2013. FILE PHOTO

ness the Aga Khan presided over the ground-breaking in December 2015.

The 60 acres was reclaimed from the 166 acre Nakawa-Naguru estate land, which in 2005 was given to OpecPrime properties for redevelopment into a modern satellite town composed of maisonette flats, execu-

tive bungalows, commercial buildings and public facilities such as leisure parks etc.

The prime city land was at the time doled out, and hundreds of tenants in blighted storey evicted, at the prodding of Mr Museveni in what was billed then as a broad-stroke government plan to build a self-sustaining modern neighbourhood to decongest central Kampala.

OpecPrime Properties-Uganda was allegedly registered as Uganda affiliate for the UK-based Comer Group.

In a 2015 interview with the Irish newspaper, the *Independent*, the Comer Brothers revealed that they were first introduced to President Museveni by retired British boxing heavyweight champion Lennox Lewis.

On October 15, 2007, the company entered into a Public-Private Part-

nership (PPP) agreement with government. The agreement provided for construction to begin in no later than four years from the signature date, starting with 1,747 subsidised residential units (dedicated units) for purchase and resettlement of the registered former tenants.

The prioritisation of the evicted tenants as beneficiaries of the first housing units was inked in a Memorandum of Understanding between the prospective investors, tenant association and government.

Tenants evicted, new deal

According to terms of the deal OpecPrime Properties assumed the financial, technical and operation obligations and risks in design, financing, building, and operation of the project whilst the government provided land for the project.

As a result of the delays by tenant to vacate both estates, the government and OpecPrime Properties were in December 2012 forced to sign an addendum to the initial agreement which re-adjusted delivery of the 1,747 units to within four years from the new date of signing.

Still, the UK company did not deliver even after the President laid foundation stone to kick-start construction works.

In an interview with this newspaper on the weekend, one OpecPrime official speaking on condition of anonymity in order to freely disclose details of an otherwise confidential discussion with government, counted how they were frustrated by corruption chain in government suffocating bureaucracy.

Such unanticipated setbacks, official said, prompted the Comer Brothers to shelve the project to a for time to sort out the bureaucracy.

This newspaper reported late year that the Comer Brothers slammed the project as "not a prospect". The report also indicated that the would-be financiers of Comer Group on the project, Netherlands Development Finance Company, said it had been disengaged by the way Ugandan authorities handled eviction of about 1,747 mer tenants.

HURDLES

OpecPrime properties has run into several administrative headwinds in its efforts to get the project off the ground. The shackles have ranged from investigations by the government ombudsman to bureaucratic red tape. The then Inspector General of Government, Justice Faith Mwendha, now a Supreme Court judge, in 2009 recommended disciplinary action against several officials for "misleading" government on the project. She also advised that the Comer Group and its directors be blacklisted in Uganda for "fraudulent practices".

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for Shs36,000 now wants Shs170b

OpecPrime Properties says it planned to first construct commercial buildings on the Nakawa side whose proceeds it planned to use for erecting the low-cost housing units for the former tenants before building posh flats and maisonettes on the Naguru side.

Why Shs170b claim?

The firm claims that it had been disadvantaged by part of the prime Nakawa land being handed out by Ugandan government for the construction of the ultra-modern Aga Khan teaching hospital.

Subsequently, the government asked the firm to submit a report detailing the extent of the loss it suffered as a result of the transfer of 60 acres of land. The official said their first projection was in the range of \$97m (Shs351b).

"We revised it downwards to \$47m in consideration of a number of factors," said the official associated with another company, but who also works for OpecPrime.

In its 2016 report for the claim, OpecPrime through their lawyers Kampala Associated Advocates (KAA) argued that the \$47m is on "account of subsidy" by the government under the Public-Private Partnership (PPP) agreement as well as costs to the developer resulting from the surrender of the Nakawa land.

Ms Kamya told this newspaper that since government is no longer



Tough times. A woman watches as her house is razed in Nakawa estate in 2011. FILE PHOTO

interested in constructing low-cost housings, the ongoing conversations is to "renegotiate the agreement with them (OpecPrime) on the basis of only the Naguru side".

The prime tracts of land are in Kampala's neighbouring Nakawa and Naguru suburbs.

Back to drawing board

"We are aware that the Nakawa land was supposed to be their business arm, which they would use to construct on the Naguru side," Ms Kamya said, adding: "These are investors, and as government, if we did something that affected their busi-

ness plan, we have to deal with it and address it."

OpecPrime Properties-Uganda's chief operating officer Mohammed Mulindwa told *Daily Monitor* separately that although discussions on the \$47m "are neither here nor there", they are "holding on" pending discussions between government and the former tenants.

Last year, Ms Kamya advanced a proposal that the tenants should be given land elsewhere as compensation but in the ensuing discussions, including in meeting with the tenant's association leaders last Thursday, most tenants were in favour of

BACKGROUND

The plan to upgrade the Nakawa-Naguru estates to a high-end self-sustaining neighbourhood was conceived and approved in 1994 by the then Kampala City Council. The Nakawa-Naguru estates prior to the eviction and demolition comprised 1,685 dilapidated housing units. The estates were built by the British in the 1950s to accommodate low-income workers and servants working in British homes and businesses. They were taken over by government at independence, and it collected rent from the tenants until 2003 when the houses were pronounced unfit for human habitation.

monetary compensation.

After OpecPrime Properties submitted its claim, the matter was referred to the Lands ministry, which constituted a valuation team led by the Chief Government Valuer, Mr Gilbert Kermundu and comprising officials from Finance, Justice and KCCA ministries.

The valuation team in its final report concluded that "considering that the land was offered to the developer

at the equivalent of \$10 (Shs36,000) in annual rent, we do not find a basis for consideration of a subsidy at this material point in time".

"We are constrained to return an opinion of value for the reasonable compensation due to OpecPrime Properties arising out of the surrender for the Nakawa land," the valuation report reads in part.

The valuation team also noted that regardless of the company having waived the third party costs, "it is implausible to believe that 90 per cent of the project 'third party expenses' are attributable to Nakawa in the absence of audited books of account and detailed and architectural drawings for Nakawa being submitted to KCCA".

The valuation team also revealed that no submissions for specific developments on the Nakawa site had ever been presented to KCCA for approval "save for the conceptual plan which was presented for purposes of communicating the proposed uses of the land".

Nonetheless, the committee also recommended for "renegotiation of the project in accordance with the remaining" Naguru site with the option of developing units and making an offer to the sitting tenants at a concessionary price.

Under this arrangement, the government would provide the subsidy. In the alternative, OpecPrime Properties develops the project and sells out the structure at a commercial rate.

Ms Kamya said government would only renegotiate with OpecPrime Properties after proving that they have the financial capacity to cause progress.